

IN THE MATTER OF  
THE APPLICATION OF  
DAVID LOUIS GINSKI  
FOR A MORTGAGE ORIGINATOR  
LICENSE

BEFORE THE COMMISSIONER  
OF  
FINANCIAL REGULATION  
Case No. DFR-EU-2007-74

\* \* \* \* \*

**STATEMENT OF THE CASE**

The hearing of the above captioned matter was held on September 13, 2007, and pursuant to Financial Institutions Article ("FI"), § 2-103 Annotated Code of Maryland was heard by the Deputy Commissioner of Financial Regulation, Joseph E. Rooney ("Deputy Commissioner"). This matter was scheduled for a hearing as a result of a decision by the Office of the Commissioner pursuant to FI § 11-607(e), to deny the Applicant, David Louis Ginski, a mortgage originator license [Comm'r Exhibit # 1]. The denial was based on the following: a) Applicant's failure to satisfy the Commissioner that the Applicant is of good moral character and has the general fitness to warrant the belief that the Applicant will act as a mortgage originator in a lawful, honest, fair and efficient manner as required by FI § 11-605(a)(2); and b) Applicant's making of a material misstatement on his application for a mortgage originator's license in violation of FI § 11-615(a)(2). Applicant was represented by J. Steven Lovejoy, Esquire. Christopher Young, Assistant Attorney General, appeared as presenter of evidence on behalf of the Commissioner. Thomas L. Gounaris, Assistant Attorney General served as counsel to the Deputy Commissioner. The proceedings were

electronically recorded.

As a preliminary matter, Mr. Lovejoy requested that Mr. Gounaris recuse himself from acting as counsel to the Deputy Commissioner in this matter. The basis of his request was that Mr. Gounaris had previously acted as counsel in the Matter of AAFI Corporation, which final decision of a prior Commissioner was a partial basis for denial of Applicant's current application. Mr. Gounaris declined to recuse himself on the basis that the final order in the Matter of AAFI Corporation is a matter of public record, and neither constitutes inappropriate *ex parte* communication nor is otherwise prejudicial to the Applicant. The Deputy Commissioner ruled consistent with this position.

### **FINDINGS OF FACT**

From the testimony and exhibits presented, and with the opportunity to observe the demeanor of the witnesses and to assess their credibility, the Deputy Commissioner finds the relevant facts to be these:

1. On or about February 1, 2007, Applicant submitted an application for a mortgage originator license [Comm'r Exhibit # 4].

2. As part of the application, applicants are required to answer the questions:

"3. Has any State or federal regulatory agency or foreign financial regulatory authority ever:

b. Found you to have been involved in a violation of a financial services-related regulation or statute? [emphasis added]

d. Entered an order against you in connection with a financial services-related activity?

e. Denied, suspended, or revoked your registration or license, disciplined you, or otherwise by order, prevented you from associating with a financial

services-related business or restricted your activities?”

In response to those questions, Applicant answered “no” [Comm’r Exhibit # 4].

3. Applicant was the President of AAFI Corporation, a former Maryland mortgage lender licensee that was subject to an administrative Final Order from the Commissioner of Financial Regulation, dated November 26, 2002. The order concluded as a matter of law that AAFI had committed numerous violations of Maryland law and regulations [Comm’r Exhibit # 5].

4. During the period relevant to this matter, Applicant was the owner of American Insurance and Mortgage Corporation (“AIMC”), a Maryland corporation among whose purposes is “[to] solicit and sell all types of mortgage products and lend money and to solicit and sell all types of insurance and annuity products”.

5. During the period relevant to this matter neither AIMC nor Applicant held a Maryland mortgage lender license issued by the Commissioner.

### **CONCLUSIONS OF LAW**

Based on the Findings of Fact, the Deputy Commissioner concludes as a matter of law under FI § 11-605 that the Applicant should not be granted a mortgage originator license at this time. To qualify for a mortgage originator license, an applicant must satisfy the Commissioner that the applicant is of “good moral character and has general fitness to warrant the belief that the applicant will act as a mortgage originator in a lawful, honest, fair, and efficient manner”. FI § 11-605(a)(2). The Commissioner may also deny an application for any reason that a license may be revoked or suspended under either the Mortgage Originator Law (FI § 11-601 *et seq.*) or the Mortgage Lender Law (FI § 11-501 *et seq.*) FI § 11-607(e)(2). The making of a material misstatement on an application for a license is one such ground. FI § 11-615(a)(1). Such grounds also include

demonstration of unworthiness, bad faith, dishonesty, or any other quality that indicates that the business of the licensee has not been or will not be conducted honestly. FI § 11-615(a)(5)

With respect to the question of whether or not Applicant intentionally made a material misstatement on his application, Applicant argued that he had not been aware of the Final Order until after he had submitted his application for a mortgage originator license. While evidence was presented to indicate that the Final Order may have been sent by regular mail and by certified mail - return receipt requested, it was erroneously mailed to an incorrect address. It was sent to “204 Attenborough Drive, Apt. 101, White Marsh, Maryland 21237”, rather than to Applicant’s correct home address of “294 Attenborough Drive, Apt. 101, White Marsh, Maryland 21237”. No evidence was presented as to whether the certified letter had been returned unclaimed [App. Exhibit # 18]. However, evidence was presented showing that Applicant had, in fact, engaged in a dialogue regarding settlement of the charges against AAFI prior to the issuance of the Final Order [App. Exhibits # 4, 10, 11 and 13], and that a hearing notice had been hand-delivered to Applicant’s then current business address [App. Exhibit # 16]. It strains credulity to conclude that Applicant was not aware that he, through AAFI, had been found to have been involved in a violation of a financial services-related regulation or statute. Nevertheless, the Deputy Commissioner’s decision to deny Applicant’s application does not rely on this issue.

The fact remains that the findings of the AAFI Order are final, and Applicant’s management of AAFI was characterized by an “apparent continuing practice of repeated unauthorized charges and overcharges [that demonstrated] a continuing pattern of consumer abuse”. *See* App. Exhibit 19 at 5. This disregard for the laws that govern mortgage lending seriously calls into question whether Applicant is of sufficient good moral character and has the general fitness to warrant the belief that he will act as a mortgage originator in a lawful, honest, fair and efficient manner as required by FI §

11-605(a)(2).

Finally, evidence was presented showing that during 2006, Applicant was engaged in originating mortgage loans for Apex Financial Group [Comm'r Exhibit # 9]. Based on testimony given, Applicant was not a W-2 employee of Apex, but rather was an independent contractor whose compensation was to be reported on form 1099. Thus, he was subject to the licensing requirements of FI 11-504. During no time relevant to this matter was Applicant so licensed. Further testimony was offered, indicating that Applicant instructed Apex to pay his compensation to AIMC, of which he was the owner. *See* Comm'r Exhibit # 6. Applicant argued that he was not aware of the licensing requirement as it applies to 1099 contractors in the net branching environment in which he and Apex were operating, but acknowledged that when he operated AAFI, he made a practice of employing only W-2 employees to originate loans. It is difficult to conclude that a person with approximately 17 years of experience in the mortgage lending business, much of which was in management positions, would be unaware of the licensing requirements. Again, Applicant's failure to comply with the licensing requirements of the Maryland Mortgage Lender Law (FI § 11-501*et seq.*) strongly suggests a disregard for the law that calls into question his general fitness to act as a mortgage originator.

In weighing the totality of evidence before him, the Deputy Commissioner is not satisfied that Applicant meets the qualifications for a mortgage originator license as required by FI § 11-605(a)(2). Therefore, the Deputy Commissioner must conclude, that it would not be in the public interest to grant Applicant a mortgage originator license at this time.

#### **FINAL ORDER**

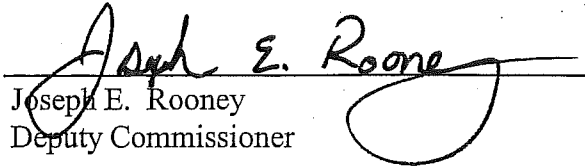
In consideration of the foregoing Findings of Fact and Conclusions of Law, it is this 17th day of September, 2007, hereby **ORDERED** that:

Applicant, David Louis Ginski, is **DENIED** a mortgage originator license, pursuant to FI §

11-607(e).

Pursuant to State Govt. Art., Section 10-222, any party who is aggrieved by the Commissioner's decision, may file a petition for judicial review with the Circuit Court for the county where any party resides or has a principal place of business. Such petition must be filed within 30 days after Applicant's receipt of this Order (Md. Rule 7-203). The filing of a petition for judicial review does not automatically stay the enforcement of the Final Order.

**COMMISSIONER OF FINANCIAL REGULATION**

  
Joseph E. Rooney  
Deputy Commissioner